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Attorneys for
W. SCOTT HARKONEN

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

 Plaintiff,

 v.
 INTERMUNE, INC.,

 Defendant.

) Case No. CR 08-0164 MHP

) **HARKONEN'S *EX PARTE***
) **APPLICATION TO FILE DOCUMENTS**
) **UNDER SEAL PURSUANT TO LOCAL**
) **RULES 79-5 AND 7-10**

) **Judge: Hon. Marilyn Hall Patel**
) **Dept.: 15**

Pursuant to Civil Local Rules 7-10 and 79-5, Defendant W. Scott Harkonen

("Harkonen") moves this Court *ex parte* for an order permitting Harkonen to file under seal the following documents: signed "Acknowledgement of Protective Order and Proper Handling of Materials Subject Thereto" forms from non-party service providers retained by defense counsel in connection with Harkonen's defense.

The Stipulation and Superseding Protective Order ("Protective Order") entered by the Court in this matter on June 10, 2008 designates certain discovery materials "Confidential" and requires, should defense counsel wish to utilize the services of any non-party to review the protected materials in connection with the preparation of a defense, that:

1 ...prior to receiving access to the materials such individual must sign a copy of the
 2 ‘Acknowledgement of Protective Order and Proper Handling of Materials Subject
 Thereto’ attached to a copy of [the Protective Order] acknowledging that:

- 3 (a) he/she has reviewed the Order;
- 4 (b) he/she understands its contents;
- 5 (c) he/she agrees that he/she will only access the protected materials for the purposes
 of preparing the defense case;
- 6 (d) he/she will not make copies of any of the protected materials without further
 order of the Court; and
- 7 (e) he/she understands that failure to abide by this Order may result in sanctions by
 this Court.

8 Protective Order at 2-3 (emphasis in original), attached as Exhibit A to the Declaration of Tania
 9 M. Mortensen (“Mortensen Decl.”), filed herewith. The Protective Order also requires defense
 10 counsel to promptly file signed copies of the Order along with the signed Acknowledgement
 11 form *ex parte* and under seal, and further provides, “[t]he government shall have no access to
 12 these signed copies without further order of the Court.” *Id.* at 3.

13 Counsel for Harkonen wishes to utilize the services of a non-party, which services may
 14 include review of materials designated “Confidential” pursuant to the terms of the Protective
 15 Order. Accordingly, and in compliance with the Protective Order, the non-party has reviewed
 16 the Protective Order and executed the Acknowledgement form(s). Those signed forms must be
 17 filed confidentially under seal, with no access provided to the government.

18 For the reasons set forth above, Harkonen respectfully requests that the Court grant it
 19 leave to file under seal the above referenced Acknowledgement forms.

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 21 DATED: August 22, 2008

KASOWITZ BENSON TORRES & FRIEDMAN LLP

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 23 By: /s/ William M. Goodman
 24 WILLIAM M. GOODMAN

25 Attorneys for Defendant W. Scott Harkonen
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